

EXHIBIT 9

1 DEPUTY: All rise for the jury.
2 (Jury in box.)

3 THE COURT: You may be seated.
4 Thank you for your patience. We're going to
5 continue where we left off with the morning
6 session, with the direct examination of this
7 witness, Antonia West. You may continue.

8 CONTINUED DIRECT EXAMINATION OF
9 ANTONIA WEST:

10 BY ATTORNEY GRIFFIN:

11 Q. Miss West, do you have those exhibits with
12 you, Exhibits 27 and 28, the two statements?
13 You can -- do you have them with you?

14 A. Yes.

15 Q. Did you look at -- did you review them over
16 lunch?

17 A. No.

18 Q. I'm sorry?

19 A. No.

20 Q. You didn't read them? Any particular reason
21 you didn't read them?

22 A. I had trouble reading.

23 Q. You have trouble reading?

24 THE COURT: Is that a yes?

25 THE WITNESS: Yes.

1 BY ATTORNEY GRIFFIN:

2 Q. If I read along with it can you follow with
3 me?

4 A. Yes.

5 Q. We're going to start with Exhibit 27.

6 A. Okay.

7 Q. That's the one we were talking about before.

8 You have the one -- the one that has eight

9 different pages. Okay? Can you read okay or

10 you just read slow? Do you know what I mean?

11 Do you know the difference between not reading
12 well and just reading well, but slowly?

13 A. No.

14 Q. In other words, if you -- if we took as much
15 time as you needed to go through that, would
16 you be able to read it on your own?

17 A. No.

18 Q. No. Okay.

19 ATTORNEY CHERNIN: I'm going to
20 object to this form of going through it.

21 THE COURT: Side bar.

22 (Side bar.)

23 THE COURT: Back on the record.

24 Miss West, I'm just going to remind you that

25 you remain under oath and you must respond to

1 the questions that are posed to you by both
2 counsel.

3 Mr. Griffin.

4 BY ATTORNEY GRIFFIN:

5 Q. Ms. West, did you go -- did you go at some
6 point to at least some high school?

7 A. North to ninth.

8 Q. Can you speak up.

9 A. To North Division to ninth.

10 Q. Ninth grade. Can you read at all?

11 A. A little bit. I ain't that good though.

12 Q. When you talked to the detectives did you tell
13 them that you can read and write?

14 A. No.

15 Q. Never told them that? Did they ask you?

16 A. No.

17 Q. Earlier this morning when you were testifying,
18 were you reading this document?

19 A. Some of it. I understood some and some I
20 didn't.

21 Q. Okay. Well, did you understand about the
22 part, for example, where when we talked about
23 that you drank five or six beers and wasn't
24 intoxicated, were you able to read that?

25 A. Yeah.

1 Q. So that part was in there, you'll agree with
2 that? We saw it earlier this morning;
3 correct?

4 A. Do I agree having five or six beers you said?

5 Q. No, no, no. But you remember seeing that part
6 in the statement before?

7 A. Yeah.

8 Q. And it was written in there and you were able
9 to read that part?

10 A. Yeah.

11 Q. Okay. So when I asked you before about
12 whether from the time you talked to the police
13 on February 2nd to today, you had seen those
14 documents at all, and had you?

15 A. Yes.

16 Q. You read them, you said yes, but you couldn't
17 remember when. Is that -- am I right about
18 that?

19 A. Yes.

20 Q. Okay. Did someone read them to you?

21 A. My mother.

22 Q. Okay. And when your mother read them to you
23 do you recall her reading your statement to
24 you and saying something about your brother
25 patting himself down after the shooting?

1 A. No, that wasn't in there.

2 Q. It's not in there?

3 A. They put some other stuff -- they put some
4 other stuff that I didn't say. And what I
5 didn't say I had my mother underlined it for
6 me what I didn't say. And that's what I got
7 at home.

8 Q. And you agree though that you initialed this
9 document all over the place?

10 A. Yes.

11 Q. In fact, whenever the police made a mistake
12 and crossed something out, you initialed it to
13 show that you knew they were crossing
14 something out; isn't that true?

15 A. No.

16 Q. Well, look, for example, on page 4 of 8.
17 Right here. Not the very last line, but one
18 line up, there's a couple of words scratched
19 out, and that looks like those initials AW are
20 right near it. When did you initial that? Do
21 you see what I'm talking about?

22 A. Where it says, She does not know how or where
23 Darnell went, above that, that's what you
24 talking about?

25 Q. Right. Right above that.

1 A. Yeah.

2 Q. You see there's a couple of words, looks like
3 and Darnell in there, they're scratched out;
4 right?

5 A. Yes.

6 Q. And just below the scratch out there are the
7 initials AW. Do you see that?

8 A. Yes.

9 Q. Whose initials are those?

10 A. Mine.

11 Q. When did you put them there?

12 A. What do you mean?

13 Q. Well, at what point when the police are
14 writing the statement out do you initial that
15 cross out?

16 A. Did I do that cross out?

17 Q. No. Did you put your initials there
18 underneath the cross out? Do you want me to
19 show you another one?

20 A. Yes.

21 Q. For example, on page 3 of 8, down here on the
22 right-hand side there's some cross outs. Are
23 those your initials AW underneath that and
24 then on the cross out over here on the left
25 are those also your initials AW, ma'am? They

1 are; aren't they?

2 A. Yes.

3 Q. In fact, when the police went through this
4 document with you they made sure you initialed
5 those changes so you couldn't say later, hey,
6 you guys changed something in my statement;
7 isn't that right? Isn't that why they had you
8 do that?

9 ATTORNEY CHERNIN: Objection.

10 This is asking her what the police --

11 THE COURT: What's the basis for
12 the objection?

13 BY ATTORNEY GRIFFIN:

14 Q. Isn't that what they told you --

15 THE COURT: One moment.

16 ATTORNEY CHERNIN: 906.02.

17 THE COURT: Calling for again
18 speculation. Overruled.

19 ATTORNEY CHERNIN: Actually it's
20 lack of personal knowledge.

21 THE COURT: Lack of personal
22 knowledge requires speculation of what the
23 officers were thinking. Overruled. I'll
24 allow it.

25 BY ATTORNEY GRIFFIN:

1 Q. When the officers asked you to place your
2 initials next to the changes and cross out,
3 why did they tell you they wanted your
4 initials there? They told you that because
5 they wanted you to acknowledge that those
6 changes were made with your knowledge; right?

7 A. No.

8 ATTORNEY CHERNIN: Same
9 objection.

10 A. To be honest, he was -- I was just trying to
11 get out of there. I was just signing anything
12 and I wasn't reading it because I -- I'm not
13 good at reading.

14 BY ATTORNEY GRIFFIN:

15 Q. Well they read it to you though?

16 A. No. That's what I'm trying to tell you, no.

17 Q. Do you know how many times your initials are
18 in this document? I mean a lot; right?

19 A. Right.

20 Q. Is it fair to say that your initials are after
21 every paragraph or just about?

22 A. Just about.

23 Q. And you're saying that the only reason you put
24 your initials on this statement was to get out
25 of there?

1 A. Yep.

2 THE COURT: That's a yes.

3 THE WITNESS: Yes.

4 BY ATTORNEY GRIFFIN:

5 Q. Did the police make any promises to you to get
6 you to talk to 'em?

7 A. No, they just kept trying to make me say my
8 brother did it.

9 Q. And did the police in fact tell you and make
10 sure that you understood that you were not in
11 custody?

12 A. No.

13 Q. Well, on page 2 of 8, for example, where it
14 reads, West did come to the CIB voluntarily
15 and after being conveyed to the CIB by
16 Detective Scott Benton West states she
17 understands she is presently not in custody
18 and no promises were made to her for her
19 statement. And then your signature is in
20 there. Do you want me to show you that? West
21 states. Can you read that?

22 A. Um-hmm.

23 Q. Is that a yes?

24 A. Yes.

25 Q. She understands she is presently not in

1 custody. Can you read all those words?

2 A. Yes.

3 Q. And no promises were made to her for her

4 statement. Can you read those words?

5 A. Yes.

6 Q. And is that your signature, not your initials

7 but your signature, on that line?

8 A. Yes.

9 Q. Did you agree to go downtown and talk to the

10 police?

11 A. Yes.

12 Q. They didn't arrest you; right?

13 A. No.

14 Q. And this was not the day after, but really

15 kind of two days after the shooting; right?

16 A. Right.

17 Q. What's your brother's nickname?

18 A. Slim.

19 Q. S-L-I-M, Slim?

20 A. Yes.

21 Q. Do you remember how much you had to drink at

22 the after hours? At the party?

23 A. No.

24 Q. It's been a long time; right?

25 A. Right.

1 Q. Do you remember telling the police that you
2 had one beer and you were in the kitchen when
3 everything started to happen?
4 A. Yes.
5 Q. Is that true, is that about right as you
6 recall now, do you recall having one beer or
7 more than one?
8 A. Yes.
9 Q. Now, I want to ask you if you remember telling
10 the police this. West denies seeing Danny
11 choke or punch anyone, and she was very upset
12 at Danny now because he wouldn't listen to
13 her. West states she hears one gunshot go off
14 in the area directly behind her where her
15 brother Danny and the Hispanic males were
16 talking in the kitchen. West states she then
17 ducks her head down and then looked back up
18 where she thought gunshot came from, and
19 everyone were running out of the front door.
20 Do you remember telling the police that?
21 A. Not saying that, when you said that I didn't
22 say -- when I said -- when you just said that
23 I said that I didn't see him choke nobody, I
24 did, 'cuz I told 'em that they -- that I seen
25 him fighting with Jay and they was choking the

1 guy up on the wall. I told 'em that, now they
2 switched that up on me.

3 Q. They switched it up on you?

4 A. Yeah. They said I didn't say that and I did
5 say that. I said that he been -- that he was
6 choking the guy and arguing with Jay and I
7 told them that, and they put I didn't say
8 that.

9 Q. So when the police wrote down that you denied
10 seeing it, the police are getting it wrong?

11 A. Yes.

12 Q. West states she then ducks her head down and
13 then looked back up where she thought gunshot
14 came from and everyone was running out of the
15 door. Did you tell them that?

16 A. Yeah. Running out the door, yeah. When I
17 looked up everybody was running out the door.

18 Q. West denies seeing anyone with a gun and now
19 doesn't even see her brother Danny. West
20 states she then runs past the victim who's
21 lying on his stomach in the kitchen near a
22 wall. Denies seeing her brother or his
23 friends once she gets outside. Is that the
24 way you told it to the police?

25 A. Yeah.

1 Q. There's nothing in here about you seeing your
2 brother patting himself down; right?

3 A. See, I said that and now I didn't know if they
4 put it in there or not. But I did say that.

5 Q. She then runs up to Jamie's white four-door
6 car and Jamie and Lea were inside the car
7 warming it up; is that right?

8 A. Yes.

9 Q. I'm going to show to you a couple of photos
10 marked 10 and 11. Do you recognize the person
11 in that photo that's marked Number 10?

12 A. Yes.

13 Q. Who is that?

14 A. This chick Lea.

15 Q. Who?

16 A. This girl named Lea.

17 Q. Lea. Was she in that car that you got into
18 after the shooting there on West Mineral?

19 A. Yes.

20 Q. And how about Number 11?

21 A. I don't know who that is.

22 Q. When you got into the car what happened?

23 A. What do you mean what happened?

24 Q. What did you say in the car? Anything?

25 A. I was just in shock, but I couldn't say

1 nothing. Just shocked and we drove off.

2 Q. You said nothing?

3 A. Nothing.

4 Q. Maintained a perfect silence the entire time

5 in that car?

6 A. I was just scared, and --

7 Q. Do you recall that at any time saying

8 something like, my brother, my brother, I

9 can't believe that shit.

10 A. Do I remember saying that?

11 Q. Yeah.

12 A. No.

13 Q. Did you say that?

14 A. No.

15 Q. And Donald Jennings was in the car with you?

16 A. Yes.

17 Q. Along with Oscar Niles?

18 A. Yes.

19 Q. Along with Jamie and Lea?

20 A. Yes. What I said was, oh shit, where's my

21 brother, because I didn't know if he had been

22 shot and I didn't see him when we was -- when

23 everybody ran out. I didn't see him run, I

24 didn't see him so I was asking Donald, you

25 know, did you see my brother, is he okay. And

1 he said, yeah, I think so. And I was like,
2 okay.

3 Q. So you didn't maintain total silence in the
4 car?

5 A. No, that's the only thing I said though, was
6 that.

7 Q. Where is my brother, where is my brother?

8 A. Yeah. I didn't say what they said. I said,
9 where is my brother. I just want to know if
10 he was okay.

11 Q. Well, let me ask you this. Now, you recall
12 seeing your brother, and even in February you
13 recall seeing your brother pat himself down;
14 is that right?

15 A. Yeah. That was in the kitchen.

16 Q. Where did he go next?

17 A. I don't know. After that's when I turned
18 around and I was just scared. I heard -- I
19 ducked, came back up, I didn't see nobody, I
20 seen everybody running down the hall.

21 Q. You saw him patting himself down before you
22 ducked?

23 A. No, after the fact. It was after it happened.

24 Q. So the gunshot goes; right? Where was --
25 where did it come from?

1 A. I don't know.

2 Q. Well, you were looking right at the group, the
3 victim was in your line of sight; wasn't he?

4 A. Yeah, I think -- I don't know, it came from
5 the living room.

6 Q. The living room?

7 A. I think.

8 Q. Like -- like out of your line of sight?

9 A. It was like -- you know like when you hear it
10 and it go off, like it was on this -- you
11 know, like it was coming from the living room.

12 Q. Like how far away? Like way back in the other
13 room somewhere?

14 A. Like by the front door where the front door
15 is, like around there somewhere.

16 Q. So, for example, you believe then based on
17 what you heard, that if this is the kitchen
18 area here, that the shooting would have been
19 way back down here, like by the front door?

20 A. Um-hmm.

21 Q. Is that right? In other words, it sounded --
22 the shot sounded to you like it was far away?

23 A. Yes. Yeah.

24 Q. And you heard that boom, then you ducked;
25 right? And then --

1 A. Yes.

2 Q. -- you came back up; right?

3 A. Yes.

4 Q. Did you see the victim fall to the floor?

5 A. Yes. He was already on the floor.

6 Q. So he's already on the floor by the time you

7 turn around?

8 A. He was landing on the floor I should say.

9 Q. And your brother, Mr. Wilber, is starting to

10 pat himself down?

11 A. Yeah, 'cuz he was just -- he just looked like

12 he was in shock and he was like --

13 Q. And you may have been in shock at that point

14 as well; right?

15 A. Yes.

16 Q. And do you recall telling the police that you

17 may have said, you shot him, get out of here?

18 A. No. See, I didn't say that. I didn't say

19 that.

20 Q. Did you tell the police that you may have said

21 that but you would not know who you were

22 talking to when you said that?

23 A. No, I didn't say that.

24 Q. Is it possible, ma'am, that you were so in

25 shock you don't remember what you said there

1 in the kitchen?

2 A. No.

3 Q. So at this point, between you and that hallway
4 and that front door you have to go by your
5 brother; right? Or does he run out ahead of
6 you?

7 A. I didn't see him, that's what I mean, he -- he
8 probably ran out in front.

9 Q. So he ran out probably before you, although
10 obviously at some point you no longer are
11 worried about him; right?

12 A. Yeah, I was worried about him.

13 Q. But you didn't watch to see where he went?

14 A. No, I was just in shock, I didn't watch where
15 nobody went.

16 Q. And at some point you get out of the house not
17 knowing where your brother Danny Wilber is;
18 right?

19 A. Right.

20 Q. And you run to the car which is parked where?

21 A. I don't even --

22 Q. Just out of curiosity, at that point why
23 didn't you follow Mr. Wilber or find his car,
24 which was the one you'd gone to the party in?

25 A. I didn't. I just seen Jamie and Lea sitting

1 out there, so I ran out to that car, asked if
2 they could take me home.

3 Q. Why not go to your brother -- with your
4 brother, the guy that had taken you to the
5 party?

6 A. Because I didn't see him at the time or I
7 would have probably went with him, but I
8 didn't see him.

9 Q. And Donald and Oscar and Jamie and Lea are all
10 in this car along with you; right?

11 A. Yes.

12 Q. And all you said was, where is my brother,
13 where is my brother?

14 A. Right.

15 Q. Did you tell the police that?

16 A. Tell the police what?

17 Q. That in the car afterwards you were saying,
18 where's my brother, where's my brother?

19 A. Yeah, but they didn't put that in there
20 either, I don't think.

21 Q. Now, the police on February 2nd interviewed
22 you a second time, right, to show you some
23 photos of different people that might have
24 been at the bar or at the party or both. Do
25 you remember that?

1 A. Yeah. Yes.

2 Q. And when you talked to them, for example, did
3 you mention anything that you might have
4 forgotten in the first statement?

5 A. Pardon me?

6 Q. Did you, during the first time you talked with
7 the police and the second time, were you able
8 to recall other details or things you might
9 have forgotten, or did you tell the other
10 detectives things that -- the second set that
11 you hadn't told the first? Anything like that
12 that you recall?

13 A. I'm not sure.

14 Q. You have Exhibit 28 there with you; is that
15 right?

16 A. Yes.

17 Q. Do you see the exhibit sticker on that one is
18 28?

19 A. Yes.

20 Q. These detectives actually took out sort of a
21 rough sketch, a drawing of that location;
22 right?

23 A. Yes.

24 Q. And is it fair to say that as best you could,
25 you kind marked down where you recall everyone

1 being?

2 A. Yes.

3 Q. And were you writing down where they were at

4 the time of the shooting?

5 A. Pardon me?

6 Q. Were you writing down to the best of your --

7 of your ability, where everyone was at the

8 time the gunshot went off?

9 A. No, 'Cuz I don't remember. I don't remember.

10 Q. Well, back then on February 2nd, it was just a

11 couple days after the shooting, was your

12 memory a little better then than it is today?

13 A. Yes.

14 Q. And what were you doing when you pointed to

15 the police and they wrote in the names like,

16 Jay, me, Donald Jennings, Torres, Danny,

17 victim, Jeranek Diaz, Nevada Medrow, all that,

18 what was all that?

19 A. That's where I was thinking they was at, I

20 didn't know for sure. They was just telling

21 me, just let the -- you know, just tell them

22 if I know, and, you know, and those stuff like

23 that. But I'm not sure, if you know, I don't

24 remember.

25 Q. But that's what you told 'em back on February

1 2nd?

2 A. Yes.

3 Q. Do you remember, for example, telling them

4 that Richard Torres, the guy in the photo that

5 we saw before, Number 8, had also told your

6 brother to chill out?

7 A. Who you say?

8 Q. You know Vato or Bato?

9 A. No, I don't know them.

10 Q. Was this guy telling your brother to chill out

11 too?

12 A. I don't know. I just remember him walking up.

13 Q. Did you tell the police in the second

14 interview when they showed you a picture of

15 that man, do you remember telling them that he

16 told them to chill out? That a lot of

17 different people were telling your brother to

18 chill out; weren't they?

19 A. I don't know. I know I -- I know I was.

20 Q. What about Jay?

21 A. I don't know about anybody else.

22 Q. What about Jay?

23 A. I don't know.

24 Q. What about Donald Jennings?

25 A. I think Donald said chill out or he said some

1 little words, but --

2 Q. And in this particular statement when you

3 talked about the shooting, West stated she

4 ducked and was scared. She thought for a

5 moment that she may have been shot because she

6 felt something bump her arm. Do you remember

7 telling the police that?

8 A. No.

9 Q. She turned and looked back. She saw that

10 Danny was gone. Is that what you told the

11 police?

12 A. Yes.

13 Q. And Diaz was lying on the floor near some

14 blood.

15 A. Yes.

16 Q. West stated she is unable to state whether

17 Danny did or did not have a gun because her

18 back was turned when the shooting occurred.

19 A. No, I didn't say that either.

20 Q. West stated she has not seen Danny since the

21 shooting occurred. Is that true? So you

22 didn't see him the next day?

23 A. I seen him the next day, but that was it.

24 Q. You mean the day after talking to the police

25 or the day before? Well, let's ask it this

1 way. You were at Bacardi's on Friday night;
2 right?
3 A. Right.
4 Q. And early Saturday morning, 3:00 o'clock,
5 3:30, the shooting happens; right?
6 Technically it's Saturday morning now because
7 it's after midnight; right?
8 A. Right.
9 Q. And after the shooting you went home?
10 A. Yeah, I went to McDonald's and then I went
11 home.
12 Q. So that would have been -- you went to
13 McDonald's to get something to eat; is that
14 right?
15 A. Right.
16 Q. Kind of calm the shock down a little bit?
17 A. Yes.
18 Q. And you then went home, so it's now Saturday
19 morning. What did you do that Saturday?
20 A. Nothing, just stayed at home.
21 Q. Which is -- which was where?
22 A. On 26th and Burnham.
23 Q. And when did you see your brother again?
24 A. I don't know.
25 Q. Before or after the police came and got you?

1 A. I'm not sure. I don't even remember.
2 Q. Well, when did you next talk to your brother,
3 as best you recall? How many days went by
4 before you saw him again?
5 A. I don't remember.
6 Q. More or less.
7 A. A couple days probably, I don't know. I don't
8 know.
9 Q. Well, did you guys like go out to the bar that
10 next Friday?
11 A. Did we what?
12 Q. Did -- you went to Bacardi's that Friday
13 night, the next Friday night did you go out to
14 Bacardi's again like with your brother?
15 A. No, I was at -- I stayed at home.
16 Q. What about that next Saturday night?
17 A. I didn't do nothing, I just stayed at home. I
18 had no baby-sitter so I had to stay home
19 anyway.
20 Q. Well, did you talk to your brother about going
21 out and said, I can't do that, I got -- I got
22 kid problems?
23 A. No.
24 Q. So did you talk to him by phone or in person?
25 The next time you talked to your brother,

1 Danny Wilber, was it by phone after the
2 shooting or in person?

3 A. I don't remember. I didn't talk to him, no, I
4 didn't.

5 Q. Well, he eventually got arrested on this;
6 right?

7 A. Yes.

8 Q. Between the shooting and when he got arrested
9 did you talk to him?

10 A. No, I don't think so. I can't remember.

11 Q. You just went all those days without talking
12 to your brother?

13 THE COURT: You're shaking your
14 head.

15 THE WITNESS: No, I'm thinking.
16 I'm just -- I can't remember.

17 THE COURT: Okay.

18 BY ATTORNEY GRIFFIN:

19 Q. I mean, your last words in the car were, oh
20 shit, where's my brother, where's my brother.
21 Where did that concern go? Weren't you
22 worried? Didn't you want to talk to him, make
23 sure he wasn't hit?

24 A. No, once I found out he wasn't hit I was okay.

25 Q. How did you find that out?

1 A. 'Cuz he said.

2 Q. Well, you found it out somehow; right?

3 Somebody besides your brother, Danny Wilber,

4 told you that Danny Wilber was okay; right?

5 Maybe your sister, maybe his girlfriend,

6 somebody; is that right?

7 A. Right. I'm still thinking.

8 Q. And at what point did you want to maybe talk

9 with Danny about this and say, wow, that was

10 some crazy stuff that went down there, wasn't

11 it, Brother? When did that happen? The day

12 after? The day after that? The day after

13 that? The day after that? Ever? Didn't

14 Antonia West want to tell her brother, man, I

15 thought somebody shot you? You know, brother

16 sister conversation kind of a thing?

17 A. I think it was the day after I talked to the

18 detecs, talked to the police, it might have

19 been the day after. I'm not sure, I don't

20 remember.

21 Q. Did you tell 'em, hey, they're trying to get

22 me to say you did this?

23 A. Yeah, I told him that.

24 Q. And what did he say?

25 A. He was like, tell the truth. Tell 'em the

1 truth.

2 Q. And what's the truth?

3 A. That he didn't shoot nobody.

4 Q. Did he see any shooter?

5 A. No, I don't think so.

6 Q. Did he ever tell you he saw the shooter?

7 A. No.

8 Q. Did you guys talk about it?

9 A. No.

10 Q. So other than that, did you ever talk about

11 the details of it, and did you ever tell him,

12 man, I thought you were hit, I saw you patting

13 him down and all that, man, I thought you must

14 have been hit? You never had that

15 conversation with him; did you?

16 A. I don't remember.

17 Q. Isn't it true, Miss West --

18 THE COURT: One moment. I'm not

19 sure we got your answer. What did you say?

20 THE WITNESS: I don't remember

21 it.

22 THE COURT: You may continue.

23 BY ATTORNEY GRIFFIN:

24 Q. Isn't it true that this whole story of your

25 brother patting himself down came from Donald

1 Jennings in March, specifically when he talked
2 to the police on March 14th of 2004? Isn't
3 that where that story comes from?

4 A. He probably said that too, but I know what I
5 seen too, so, we both might think the same
6 thing, who knows.

7 Q. Isn't it true that your story has changed
8 from, I didn't see the shooting and I wasn't
9 looking at my brother Danny, which is --

10 A. No, I didn't say that though. They -- they --
11 them detecs added their own little stuff in.

12 Q. That you weren't looking, that you had your
13 back turned, that's what the detecs --

14 A. Yeah --

15 THE COURT: One moment. I'm
16 going to ask you that once you ask her the
17 question let her have an opportunity to
18 respond. All right. What was the question
19 again?

20 BY ATTORNEY GRIFFIN:

21 Q. The detecs added that kind of stuff in?

22 A. Yes.

23 Q. They changed what you were saying?

24 A. They changed it all around on me, that's what
25 they did.

1 Q. And made you -- made it look like you were
2 saying you didn't --
3 A. Make it --
4 Q. -- see the shooting?
5 A. Yeah.
6 Q. And today you saw Danny Wilber, when the shot
7 went off your eyes were on him?
8 A. Yeah, see, I'm standing right there, I can see
9 my brother. He's tall and big, I can see him.
10 Q. And you were looking right at him?
11 A. Yes, I was.
12 Q. Were you looking at his stomach or his back?
13 A. I was looking at his -- like here, his stomach
14 you could say.
15 Q. Where was he facing? Was he looking -- facing
16 right toward you?
17 A. I think that's when he was talking to Jay or
18 somebody. Into it with Jay or the guy on the
19 wall.
20 Q. No, when the gunshot went off, Miss West, was
21 your brother turned looking at you or was his
22 back to you and he was facing the victim and
23 the guy he was choking and other Hispanic
24 males?
25 A. I'm not sure.

1 Q. You're not sure? You were right there.
2 A. I'm not sure.
3 Q. Because so much time has passed?
4 A. I was right there but I'm not sure.
5 Q. When he patted himself down were you looking
6 right at him as he went like this?
7 A. Oh yeah. Yeah, I was.
8 Q. And before that was his -- was he looking
9 towards you or was his back to you?
10 A. That I don't remember.
11 Q. So after this night when was the next time
12 between that and the day that your brother got
13 arrested, when was the next time you guys went
14 out?
15 A. We haven't went out.
16 Q. You never went out again in the following
17 three weeks; did you?
18 THE COURT: You're shaking your
19 head side to side, does that mean no?
20 THE WITNESS: No. I'm sorry.
21 BY ATTORNEY GRIFFIN:
22 Q. Did the police, in the way they talked to you
23 and things like that -- I know they made
24 things up and I'll get to that in a minute --
25 but were the police disrespectful to you?

1 A. Kind of. When he said something and he
2 started getting all jazzy and all smart and I
3 just sat there. I didn't say nothing, I just
4 sat there.

5 Q. Who was that?

6 A. I don't know. I'm not sure.

7 Q. Well, was it the first time you were
8 interviewed or the second time? If you
9 recall.

10 A. The second time, yeah, the second time.

11 Q. And the first time when you were interviewed
12 the detectives were okay with you?

13 A. Yeah.

14 Q. But it's clear that they must -- maybe they
15 were doing that to try to fake you out so they
16 could change what you were saying maybe, huh?

17 A. Could be.

18 Q. And there's no question in your mind that when
19 you talked to the detectives in February you
20 told 'em the part about you were looking at
21 your brother when the shooting happened, you
22 were looking right at him?

23 A. Yes, and that's when they put that -- they add
24 that other little stuff in there.

25 Q. And you told 'em that right after the shooting

1 you saw your brother?

2 A. Yes, 'cuz I seen him patting himself down to
3 see if he'd been hit.

4 ATTORNEY GRIFFIN: Nothing
5 further.

6 THE COURT: Cross.

7 CROSS EXAMINATION:

8 BY ATTORNEY CHERNIN:

9 Q. Ms. West, you'd like to help your brother in
10 this case; wouldn't you?

11 A. Yes.

12 Q. And if you could you'd make something up to
13 say he wasn't even there; right?

14 A. Right.

15 Q. But you haven't done that; have you? Is that
16 no? You haven't made anything up?

17 A. No. Did I make anything up --

18 Q. Yes.

19 A. -- you asking me? No, I didn't make nothing
20 up.

21 Q. And Mr. Griffin was asking you questions about
22 reading. You have some -- is it true that you
23 have some learning disabilities?

24 A. Yes, it is.

25 Q. And were you in special classes when you were

1 in school?

2 A. Yes, I was. Small class.

3 Q. And where was that? Was that before you went

4 to North Division?

5 A. That was at North. And it was at my other

6 schools I went to.

7 Q. What other schools did you go to?

8 A. I went to Forest home, I went to Audubon,

9 North, I think that's about it.

10 Q. And this area of the kitchen, first of all,

11 the fight -- or you saw your brother first of

12 all engage in a fight with Jay; is that

13 correct?

14 A. Yes.

15 Q. And he snatched a chain from Jay's neck?

16 A. Yes.

17 Q. And Danny was acting pretty bad; right?

18 A. Right.

19 Q. And you were trying to get him to calm down;

20 right?

21 A. Yes.

22 Q. And Jay was his friend; right?

23 A. Right.

24 Q. Had he and Jay known one another a long time?

25 A. Pardon me?

1 Q. Had Jay and Danny known one another a long
2 time?
3 A. Yes.
4 Q. Do you know approximately how long?
5 A. No.
6 Q. Now, when you went to the bar, to Bacardi's,
7 you walked to Bacardi's; correct?
8 A. Yes. Yeah.
9 Q. And in your earlier testimony you said that
10 you drove with Danny from Bacardi's to the
11 party; correct?
12 A. Right.
13 Q. And was that in Danny's car or Javier Denoyos'
14 car?
15 A. No, it wasn't my brother's car.
16 Q. It was somebody else's car?
17 A. Yes.
18 Q. And you told that to the detectives in your
19 second -- in your -- is it true that you told
20 the -- some detectives that at some point; is
21 that true?
22 A. Right.
23 Q. So when you went looking for a ride
24 afterwards, you weren't looking for Danny's
25 car; were you?

1 A. No, 'cuz -- no.

2 Q. 'Cuz Danny's car wasn't there?

3 A. No, it wasn't.

4 Q. So when Mr. Griffin asked you that question,

5 that was -- is it fair to say that that

6 confused you in some way?

7 A. Yeah.

8 Q. Now, before the gunshot occurs there's lots of

9 stuff going on in the kitchen; correct?

10 A. Right.

11 Q. And in that kitchen area relative to the

12 counter top, where was Danny getting into it

13 with the person in -- who you identified in

14 photograph Number 8 and photograph 21? Where

15 was that fight taking place?

16 A. Like --

17 Q. Relative to the --

18 A. By the wall and like the -- the table, like

19 the wall.

20 Q. Okay. Let me ask it this way. Was it on this

21 side of the table?

22 A. It was like --

23 Q. And I'm now pointing to the west of the

24 table.

25 A. I think it was up.

1 Q. It was up?

2 A. Yeah, like in the middle.

3 Q. Up in here?

4 A. No, above the table, no.

5 Q. Up here?

6 A. Yeah, but over more. Yeah. No, over there
7 more.

8 Q. Over this way?

9 THE COURT: Mr. Chernin, the
10 record's going to be very muddled. What
11 you're going to need to do is you're going to
12 need her to take the diagram and instead of
13 you sort of inserting yourself into the
14 proceedings, have -- have her point to where
15 it is.

16 ATTORNEY CHERNIN: Thank you,
17 Your Honor. That's probably a better way to
18 do it.

19 A. It's like he was right -- like right there.
20 This is the wall, that's the -- the table,
21 it's like right in this area.

22 BY ATTORNEY CHERNIN:

23 Q. Where was the stove? Do you recall seeing the
24 stove?

25 A. I'm not sure.

1 Q. Do you recall where the door was to the
2 outside?
3 A. The back door?
4 Q. The back door.
5 A. I don't know if that was the back door or not,
6 but it was a door right there though.
7 Q. A door right where?
8 A. Like on the side of where they was. Like they
9 was right here, I think like on the -- like on
10 the side right here there was a door. I'm not
11 sure.
12 Q. I'm showing you what's been marked as Exhibit
13 15. Is that the door you're talking about?
14 A. It looked like it. I'm not sure. It looked
15 like it.
16 Q. It looks like it?
17 A. Yeah.
18 Q. Now, in looking at Exhibit 15, does this
19 refresh your recollection as to where this
20 door was in relationship to the counter top?
21 Does that help you? No?
22 A. No.
23 Q. You can't see --
24 A. I don't remember.
25 Q. And so when you say what is clear in your mind

1 is that the fight between Danny and Mr. --
2 Number -- photograph 21 and Number 8, that
3 took place somewhere near the back door; is
4 that what you --
5 A. Yeah, like by the table, yeah.
6 Q. Near the table and by the back door; correct?
7 A. Right.
8 Q. And so wherever the photographs might show
9 that back door, that's where the fight was
10 taking place; correct?
11 A. Right.
12 Q. So you don't exactly remember where by looking
13 at the diagram, but by looking at the picture
14 you know that your recollection is that the
15 fight was taking place somewhere near the
16 door; correct?
17 A. Right.
18 Q. Now, when -- was there ever a point in time
19 prior to the shooting that you saw or observed
20 your brother Danny behind the man who got
21 shot?
22 A. Was he behind the man that got shot?
23 Q. Yes.
24 A. No.
25 Q. I'm talking about your brother Danny.

1 A. Yeah. Was he behind the man that got shot you
2 asking me?
3 Q. Yes.
4 A. No, he wasn't.
5 Q. And after you heard the gunshot, did you see
6 your brother in front of or behind the man who
7 got shot?
8 A. That I don't remember. I don't remember.
9 Q. You did observe -- did you see where the man
10 who got shot?
11 A. I seen after -- after everybody was running
12 out and I seen him laying there, I just -- I
13 don't remember. I know I seen him laying
14 there though.
15 Q. Okay. The man who got shot is the person
16 we're talking about?
17 A. Yeah, he was laying.
18 Q. Sitting there laying there?
19 A. Yeah, he just landed on the floor when I
20 looked, he just landed on there.
21 Q. Did you hear a -- the man landing on the
22 floor?
23 A. Yeah. Like a -- not -- I couldn't hear it
24 that good, but just a little -- yeah, just a
25 little bit.

1 Q. When you say a little bit of -- was it like
2 a --
3 A. Yeah.
4 Q. -- a thud or a --
5 A. Yeah.
6 Q. A heard a clap is --
7 A. Yeah, like a --
8 THE COURT: One at a time so
9 that -- wait till he asks the questions and
10 then you respond, wait till she answers and
11 then you can start again.
12 BY ATTORNEY CHERNIN:
13 Q. Now, did you see or observe anyone after the
14 man got shot move his body in any way?
15 A. No, I don't know. I can't tell you that 'cuz
16 I don't know.
17 Q. Now, when the fighting was taking place
18 between your brother and the two Hispanic
19 guys, was that all taking place this -- to the
20 north, toward the top of the picture, Exhibit
21 1, or toward the bottom?
22 A. The top.
23 Q. Toward the top. And at the time the gunshot
24 went off, to your recollection was your
25 brother engaged in a fight with those Hispanic

1 guys?

2 A. Yes. I think so. Yes.

3 Q. Now --

4 A. 'Cuz I seen the guy coming like pull his coat,
5 or did something to his coat. I think like
6 pulled it off way off is what I seen.

7 Q. From the back?

8 A. Yeah.

9 Q. Or the front?

10 A. The back. He came from the back and tried to
11 like -- I think he pulled his coat off, like
12 pulled it halfway off. That's when the
13 gunshot went off.

14 Q. While the guy was pulling on your brother?

15 A. Pulling, yeah, pulling his coat, and then the
16 gunshot went off.

17 Q. Was it the -- was it the man who was closer to
18 the --

19 A. See, I don't know these guys so I don't know
20 who was who and what's what.

21 Q. So you're not sure?

22 A. No, but I know somebody grabbed him from the
23 back. I know that.

24 Q. In terms of the guy who grabbed him from the
25 back, was it a guy who was closer to the

1 counter top or closer to the stove that pulled
2 your brother from the back?
3 A. I think it's the counter top, but like by the
4 counter.
5 Q. By the counter and that guy was physically
6 pulling your brother --
7 A. His coat.
8 Q. -- away?
9 A. Yeah.
10 Q. So that at that point if -- if that means that
11 your brother's back would have been facing
12 towards you if the guy was pulling the back of
13 his coat; right?
14 A. Right.
15 Q. And your brother, if the guy's pulling the
16 back of his coat, would have been facing
17 forward toward the wall or the door; correct?
18 A. Yeah. Correct.
19 Q. He would have been facing toward the door or
20 toward the stove?
21 A. He was like towards the wall, like looking
22 towards, you know, looking at the dude that,
23 you know, on the wall.
24 Q. So the --
25 A. And then somebody came behind and tried and

1 did something to his coat.

2 Q. Tried to pull your brother away --

3 THE COURT: Let her finish her

4 response.

5 ATTORNEY CHERNIN: Sorry.

6 THE COURT: Go ahead.

7 A. Like he was pulling his, you know, just

8 pulling his coat from the behind, you know,

9 from the back.

10 BY ATTORNEY CHERNIN:

11 Q. Now, in your interviews with the detectives --

12 first of all, Mr. Griffin and the detectives

13 have characterized this as a voluntary

14 interview. When -- when you first made

15 contact with those detectives did you call the

16 detectives and say, hey, I'm Antonia West, I

17 was at 1128 West Mineral on January 31st,

18 2004, and I observed a fight going on and

19 somebody got shot? Is that how you -- how you

20 came to be in contact with those police

21 officers?

22 A. No. They came to my mother's house.

23 Q. They came looking for you?

24 A. Yes.

25 Q. And when they -- when they voluntarily took

1 you, did you say, you know, I'm not
2 comfortable talking to you here at my mother's
3 house, I'd much rather get in the police car
4 and take a trip downtown with you and go talk
5 to you someplace else? Is that what happened?
6 A. No. They came and they just asked me, would I
7 refuse to come with them, and I was like no, I
8 don't refuse, I'll come with you, wherever we
9 gotta go. And I went and went down there and
10 talked.
11 Q. And you met with -- do you recall those first
12 detectives, there's a black detective named
13 Louis Johnson?
14 A. Louis, yeah, I remember that name.
15 Q. You remember Louis?
16 A. Louis Johnson.
17 Q. Louis Johnson was one of those people that
18 treated you with respect; right?
19 A. Yes.
20 Q. And Louis Johnson didn't try and beat a
21 confession out of you or beat something out of
22 you; did he?
23 A. No, he was just -- they just kept telling me,
24 you know, just if he did it just tell us he
25 did it and tell the truth. And I was like, I

1 am telling the truth, he didn't do it. I
2 didn't see him do it. And then it was just
3 talking and kept trying to say my brother did
4 it.

5 Q. And when you said you didn't see your brother
6 do it, is it that you couldn't see your
7 brother doing it or that you didn't see your
8 brother?

9 A. I didn't see him do it.

10 Q. And when they were taking down this was one of
11 the detectives -- and I'm sorry, I couldn't
12 read the other one's name real easily -- I'm
13 sorry, there was a white detective with a gray
14 beard, Randy Olson. Do you remember him? He
15 was with Louis Johnson.

16 A. No, I don't remember him.

17 Q. Was it mostly Mr. Johnson or Detective Johnson
18 that was talking to you?

19 A. It was both of them. It was both talking.

20 Q. And Mr. -- Detective Johnson's a friendly guy
21 with a nice smile, is that -- is that fair to
22 say?

23 A. Yes.

24 Q. And he smiled at you during this and he tried
25 to just find out what was going on; right?

1 A. Yes.

2 Q. Now, who's -- was somebody writing things
3 down? I mean, if Mr. Griffin had you identify
4 your initials on this piece of paper was
5 somebody writing on that piece of paper?

6 A. I'm not sure.

7 Q. Well, Exhibit Number -- Exhibit 27, that
8 document that Mr. Griffin asked you to read
9 before at page 1, Exhibit 27, who was writing
10 that down? Do you remember? Who's writing
11 the words that were -- that you found -- that
12 you find on Exhibit 27?

13 ATTORNEY GRIFFIN: We're talking
14 about not counting initials and signatures?

15 ATTORNEY CHERNIN: Yeah.

16 BY ATTORNEY CHERNIN:

17 Q. Not counting what you wrote, because you
18 acknowledge that you wrote your initials and
19 signature; right?

20 A. Right.

21 Q. Who wrote that stuff?

22 A. I'm not sure. I don't remember.

23 Q. Well, was it -- was there -- were there more
24 than the two detectives with you at that time?

25 A. Yeah.

1 Q. Were there more people in there?
2 A. No, just the two, just the two detecs.
3 Q. Okay. A white guy and a black guy; right?
4 A. Right.
5 Q. And -- but you don't remember as you sit here
6 today which one was writing; correct?
7 A. Yeah, I don't remember.
8 Q. And you didn't write the bulk of that stuff;
9 did you? I mean, the majority of the words on
10 Exhibit 27 you didn't write, it was written
11 down by one of those two detectives; right?
12 A. Right.
13 Q. And was it -- did you -- did anybody suggest
14 taping this conversation?
15 A. I don't know. What do you mean taping the
16 conversation?
17 Q. Well --
18 A. Who?
19 Q. Like taking a microphone and a -- and an audio
20 tape, I don't know if young people remember --
21 A. Yeah, I know what --
22 Q. -- audio tape, do you know what I'm talking
23 about?
24 A. Yeah, I know what you mean.
25 Q. Like tape --

1 A. Tape recorder.
2 Q. Tape player?
3 A. Yeah.
4 Q. Did anybody suggest taping this conversation
5 so that there wouldn't be any question as to
6 what you said?
7 A. Not that I know. I don't know.
8 Q. Okay. Well, this all took place at the
9 detec's house, not your house; right?
10 A. Right.
11 Q. And not literally their house, but where they
12 controlled the situation; right?
13 A. Right.
14 Q. And nobody suggested taking out a video
15 camera; did they?
16 A. No.
17 Q. And when you had this diagram attached to
18 Exhibit Number 28 -- first of all, did you
19 draw the diagram?
20 A. This?
21 Q. Yeah, did you make the -- the picture?
22 A. When they asked me I was just like I, you
23 know, I think he was there, I think this
24 person was there, 'cuz I don't know. I don't
25 remember.

1 Q. Okay. I'm trying to remember, if you can, was
2 this when the shooting took place or when
3 something else took place? I mean, what were
4 you trying to portray in the items that you
5 placed on that now six-page document with the
6 with the diagram, Exhibit 28? What were you
7 trying to portray? Do you remember?

8 A. Was I what?

9 Q. What were you trying to show? Were you trying
10 to show where somebody was when the shots were
11 fired or when they were fighting? What were
12 you trying to show?

13 A. I think it was when they was fighting, when
14 they got into the little argument and that.

15 Q. But not when the shots were fired?

16 A. What do you mean, not when the shots were
17 fired?

18 Q. Well, were you trying to show where people
19 were before the shots were fired, after the
20 shots were fired?

21 A. You mean when I was talking to the detecs?

22 Q. Yeah, in that diagram that's in front of you.

23 A. Yeah.

24 Q. Do you know what you were trying to show?

25 A. 'Cuz they was asking me who was standing in

1 the kitchen, and then I just said -- I said
2 who was in there, in the kitchen, but I didn't
3 know for sure where everybody was standing at.
4 Q. Okay. But do you even know what point in time
5 you were trying to draw? If you're looking at
6 that today what does that show, in your mind?
7 A. What do you mean, what it shows?
8 Q. Does it show -- does it show a point in time
9 you locate people on that picture; right?
10 A. Right.
11 Q. Does it show where people were after the
12 shooting, before the shooting or during the
13 time of the shooting?
14 A. I don't know.
15 Q. You don't?
16 A. (Shakes head no.)
17 THE COURT: Are you saying no?
18 THE WITNESS: Yeah, I'm -- no,
19 yeah, I don't remember. No, I don't remember.
20 BY ATTORNEY CHERNIN:
21 Q. Or you just don't know?
22 A. I just don't remember.
23 Q. Okay. Let me ask you this another way then.
24 After the shooting your brother is clearly
25 behind Mr. Diaz, the dead man, because he runs

1 out the door; right? So at that point in time
2 he's behind him; is that fair to say?

3 A. What do you mean, behind him?

4 Q. Well, if he -- if Mr. Diaz is -- is as
5 portrayed on Exhibit 1, is lying on the floor,
6 your brother at some point goes down in this
7 diagram away from where Mr. Diaz is; right?
8 Away from Mr. Diaz's head, after Mr. Diaz is
9 down on the floor; right?

10 A. Right.

11 Q. Before Mr. Diaz is down on the floor, your
12 brother is in front of -- of where Mr. Diaz is
13 on the floor; correct?

14 A. Right. That sound right.

15 Q. And at the time of the shooting, if you know,
16 was your brother behind Mr. Diaz?

17 A. No.

18 (Defense counsel confers with
19 defendant.)

20 ATTORNEY CHERNIN: Subject to any
21 redirect, I have no additional questions at
22 this time, Your Honor.

23 THE COURT: Redirect.

24 REDIRECT EXAMINATION:

25 BY ATTORNEY GRIFFIN:

1 Q. Miss West, I'm going to show you a photograph,
2 it's marked as Exhibit Number 30. Do you
3 recognize that person?

4 A. Um-umm (meaning no). Who is that? What's her
5 name?

6 Q. Pardon me?

7 A. What's her name?

8 Q. Nevada.

9 A. No, I don't know her.

10 Q. Do you recall seeing her? I know you don't
11 know her, but do you recall seeing her at the
12 after hours?

13 A. I don't remember if she was at the after set.
14 I don't know 'cuz I don't know her, so I don't
15 know.

16 Q. Let me ask you this. On Exhibit -- sorry,
17 Judge -- 28, that's the drawing where the
18 police showed you pictures of who's there, and
19 as best you could you tried to tell 'em who
20 was at the party and where they were in or
21 near in that kitchen; right?

22 A. Right.

23 Q. And this X right down here, does that say
24 Nevada Medrow? Can you read that?

25 A. Yes.

1 Q. And Nevada Medrow is this woman; correct? And
2 the police showed you her picture and you
3 identified her as one of the people that was
4 there and you said you recalled her being
5 right in that doorway right just -- just by
6 the doorway where you have the victim and
7 Jeranek Diaz; correct?

8 ATTORNEY CHERNIN: At what point
9 in time?

10 ATTORNEY GRIFFIN: On that
11 diagram.

12 A. I don't remember.

13 BY ATTORNEY GRIFFIN:

14 Q. That's where you put her.

15 THE COURT: Is there an
16 objection?

17 ATTORNEY CHERNIN: Yeah. It
18 assumes facts that are not in evidence. The
19 man was not a victim at that time. She said
20 she doesn't know what was represented.

21 THE COURT: That's not what was
22 asked. I'm going to overrule the objection.
23 If I understood the question, Mr. Griffin,
24 you're asking her whether or not she
25 recognizes the individual depicted in Exhibit

1 30, she's indicated that she does not. You've
2 now referred her to Exhibit 28 and asked her
3 how the name of that individual ended up on
4 that document, that diagram, as being in that
5 kitchen.

6 ATTORNEY GRIFFIN: Right.

7 Right. I'll back it up in a minute, Judge.

8 BY ATTORNEY GRIFFIN:

9 Q. Miss West, this particular page of that
10 exhibit is a diagram kind of like this one,
11 Exhibit 1; correct?

12 A. Right.

13 Q. Okay. And when the police were talking to
14 you, one of the things they asked you is where
15 was everybody when the shooting happened as
16 best you could recall; correct?

17 ATTORNEY CHERNIN: Objection.

18 A. Right.

19 ATTORNEY CHERNIN: Now, that
20 assumes a fact not in evidence because I've
21 asked her when that was supposed to depict and
22 she said she didn't know.

23 ATTORNEY GRIFFIN: I asked her if
24 it was correct and she said right. I know
25 what Mr. Chernin asked her, I think I can ask

1 her the same questions.

2 THE COURT: I'm going to overrule
3 the objection. I'll allow it.

4 BY ATTORNEY GRIFFIN:

5 Q. The police said and asked you to identify
6 where people were, as best you could recall,
7 when the shooting happened; right? Isn't that
8 what this is?

9 A. Right.

10 Q. And you put yourself way over here by the
11 bathroom; didn't you?

12 A. Um-hmm (meaning yes).

13 Q. Is that a yes?

14 A. Yes.

15 Q. And you put Jay over by the corner of the
16 table; right?

17 A. Right.

18 Q. And you put your cousin Donald right here by
19 the 'frig; correct? Back when you talked to
20 the police, you may remember it differently
21 today, but do you agree that's what you told
22 the police? Or did they just put the names in
23 and you signed it? Do you follow me or do you
24 want me to repeat that?

25 A. No, I follow you. I'm just thinking.

1 Q. Well, let me put it to you this way,
2 Ms. West. The police aren't necessarily
3 interested in you showing where everyone was
4 after the shooting; are they? And the police
5 aren't asking you to put on the diagram where
6 everyone was before the shooting. What the
7 police want to know and what they want you to
8 show 'em here is where was everyone when the
9 shooting happened, isn't that what that
10 diagram is supposed to represent, as best you
11 could recall when you talked to them of
12 course?

13 A. Yes.

14 Q. Okay. And isn't it true that you told them
15 that Nevada Medrow was where her name is on
16 that diagram? I know you didn't know her
17 name, but as they were showing you pictures of
18 people at the party didn't you say, yeah, that
19 girl was right there, a little bit below where
20 the victim as he's called there on that
21 diagram and Mr. Jay Diaz were, right in here;
22 right?

23 A. Right.

24 Q. Is that right?

25 A. Yes.

1 Q. So between the shooter down here somewhere,
2 and where the victim and the -- Mr. Diaz, the
3 guy that was getting choked by your brother,
4 is Nevada Medrow, according to you; right?

5 A. I'm confused.

6 Q. Okay. Here's the shooter right here where I'm
7 pointing.

8 A. Um-hmm (meaning yes).

9 Q. Let's just say you said you thought he was
10 back by the door somewhere; right?

11 A. Who was back by the door somewhere?

12 Q. The shooter. That's where you heard the
13 gunshot come from, back down here by the door
14 somewhere; right? Down that hallway?

15 A. Down a little walkway to get to the --

16 Q. The front door.

17 A. Yeah. To get to the living room; right?

18 Q. Right. Down in that hallway there; right? To
19 get out of the kitchen toward the living room,
20 that's where you thought the shooter was.
21 That's where the gunshot seemed to come from,
22 down in the living room somewhere; right?

23 A. Right.

24 Q. Okay. On that diagram there where you told
25 the police where everyone was when the

1 shooting happened --

2 A. I didn't -- I didn't remember, so they was
3 just telling me to tell -- I gotta tell them
4 something, but I didn't remember though, so I
5 was just like, I don't remember. And they was
6 like, you gotta tell me something.

7 Q. So you think the police put the name Nevada
8 Medrow in there?

9 A. No, I didn't say they did. I'm just saying
10 that they was telling me I had to tell them
11 where everybody was standing, I don't
12 remember, but I had to tell them something.

13 Q. Where did you come up with Nevada Medrow?

14 A. That's the girl; right?

15 Q. In that picture.

16 A. Yeah.

17 Q. Where did you come up with her? Just
18 something else you made up?

19 A. I don't remember. No, I ain't made up
20 nothing.

21 Q. Well, let me ask you this. If we take away
22 Nevada Medrow for a minute, who are the three
23 people closest to the victim on your diagram?
24 If you just want to say the letters of their
25 names, if you're not sure how to read their

1 names, just read the letters.

2 A. What are you asking me?

3 Q. I'm saying take away Miss Medrow for a minute,
4 to take that away, do you see where there's an
5 X for the victim?

6 A. Um-hmm (meaning yes).

7 Q. Who in your diagram are the three people
8 closest to him?

9 A. Closest to the victim?

10 Q. Yep.

11 A. Torres and --

12 Q. Torres?

13 A. Diaz.

14 Q. Diaz? And who's the third one? Who's this
15 one right here?

16 A. Danny, my brother.

17 Q. Danny, that's your brother; isn't it?

18 A. Right.

19 Q. So you told the police that at the moment of
20 the shooting the three people closest to the
21 victim were Torres, Diaz, Jay Diaz, right, and
22 your brother; is that right?

23 A. What do you mean? Now I don't understand.

24 Q. The police asked you to mark on here as best
25 you could, to tell them where everyone was

1 when the shot went out; right?

2 A. Right.

3 Q. Okay. And you told them the victim was

4 standing approximately right where you

5 marked -- where they marked X with victim,

6 right, although it says V-I-C-T there;

7 correct?

8 A. Correct.

9 Q. Just below that there was another X and they

10 wrote in Jay Diaz; right? You don't know his

11 name, but that would have been the picture you

12 pointed to, said this guy was right next to

13 the victim; right?

14 A. Right.

15 Q. Okay. The other guy that was closest would

16 have been Mr. Torres. In fact, you have

17 Mr. Torres right here along this line that

18 would be like the cabinets for the counter for

19 the kitchen; right? Am I correct?

20 A. Right.

21 Q. And then the other guy, since Mr. Paniagua is

22 kind of over here, the next guy that's also

23 closest to the victim is Danny. When you told

24 the police as best you could recall where

25 everyone was, the three people closest to the

1 victim were Jay Diaz, Torres and your brother;
2 correct?

3 A. Right.

4 Q. And you signed that with your name and dated
5 it February 2nd of 2004; right?

6 A. Right.

7 Q. And you have Mr. Diaz and the victim right in
8 this area right in here; correct?

9 A. Pardon me?

10 Q. You -- on that diagram you show the victim and
11 Mr. Jeranek Diaz sort of right in this area
12 here; correct? Strike that. Never mind
13 that. You don't have to answer that.

14 ATTORNEY GRIFFIN: Judge, I'm
15 going to ask that this diagram be labeled and
16 published to the jury separate from -- well,
17 it's been marked as Exhibit 28 but at this
18 point I don't think it's appropriate for the
19 entire document to go in, I'm just going to
20 ask that the diagram page that's been
21 testified to be separated from it and
22 published to the jury.

23 ATTORNEY CHERNIN: Why don't --

24 THE COURT: Any objection?

25 ATTORNEY CHERNIN: Sure. Why

1 don't --

2 THE COURT: Side bar.

3 ATTORNEY CHERNIN: Well, it's

4 just --

5 THE COURT: Side bar. Side bar.

6 Bring the document.

7 (Side bar.)

8 THE COURT: Any objection to the

9 court receiving 28A into the record?

10 ATTORNEY CHERNIN: No.

11 THE COURT: Court will receive

12 28A into the record. And the State is asking

13 for it to be published to the jury at this

14 time. Any objection?

15 ATTORNEY CHERNIN: No, Your

16 Honor.

17 THE COURT: Okay.

18 (Exhibit 28A was received into

19 evidence.)

20 THE COURT: Miss Burzynski,

21 you're going to be handed what has been marked

22 for identification and received into the

23 record 28A. After you have completed your

24 view of it please tender it to the juror next

25 to you and so on and so on until each of you

1 have had an opportunity to review that. Miss
2 Silkey, I think you'll be the last one, you'll
3 tender it back to my deputy.

4 (Jury views exhibit.)

5 THE COURT: You may continue.

6 BY ATTORNEY GRIFFIN:

7 Q. Miss West, I'm going to show you a couple more
8 pictures, they're marked with Exhibits 19 and
9 20. Do you recognize those guys? First 19.

10 A. Yes.

11 Q. Who is that?

12 A. I seen him before.

13 Q. Who is that?

14 A. Javy.

15 Q. Javy. And what's his relationship to your
16 brother, Daniel Wilber?

17 A. His friend.

18 Q. His friend. When you went from Bacardi's to
19 the party did you go in Javy's car?

20 A. That's right, yes.

21 Q. And did Javy in fact drive it?

22 A. Yes.

23 Q. Is it true that he's about five six?

24 A. I don't know.

25 Q. He's way shorter than your brother?

1 A. Yeah.

2 Q. And this guy in Exhibit 20, do you recognize
3 him?

4 A. Isaiah.

5 Q. Isaiah. What's his relationship to your
6 brother, the defendant?

7 A. Friend.

8 Q. Another friend?

9 A. Yes.

10 Q. That's Exhibit 20. And is he about five ten?

11 A. Yes.

12 Q. Are any of these guys in that house that night
13 even as close to as tall as your brother, that
14 you recall?

15 A. No, not that I know of.

16 Q. Did you see Isaiah that night fight your
17 brother?

18 A. No.

19 Q. Did you see your brother punch this guy,
20 Mr. Torres, the guy you saw before in Exhibit
21 8, which -- this is actually Exhibit 9 but --
22 I'm going to show you Exhibit 9, is that the
23 same guy you saw before in Exhibit 8? There
24 it is.

25 A. Oh yeah.

1 Q. That's the same guy; right?

2 A. Yeah.

3 Q. Did you see your brother punch him? Or you

4 know that's what Mr. Torres said happened;

5 right?

6 A. Right.

7 Q. Right?

8 A. Right.

9 Q. You know what all of the different witnesses

10 in this case are saying now; don't you? You

11 didn't back in February, but now you do. You

12 have some idea of what everyone's told the

13 police, what's in all the reports, you know

14 all of those things now; right?

15 ATTORNEY CHERNIN: Objection.

16 Foundation.

17 THE COURT: Overruled.

18 BY ATTORNEY GRIFFIN:

19 Q. Correct, Miss West?

20 A. What do you mean?

21 Q. What I mean is you know that Mr. Torres says

22 your brother punched him; right?

23 A. Did I know that?

24 Q. Yeah. You knew that, you know it today, you

25 didn't know it in February?

1 A. Yeah, I know it now.

2 Q. You know that Mr. Torres says he hit his head
3 on the cabinets and kind of like saw stars and
4 that; right? You heard these things before
5 today?

6 THE COURT: Mr. Griffin, just let
7 her have an opportunity to respond and then
8 you may ask the next question.

9 A. So you want to know, did I see him fall and
10 hit his head, is that what you saying?

11 BY ATTORNEY GRIFFIN:

12 Q. Nope. I want to know if between the time the
13 shooting happened and today, you've looked at
14 other reports or had your mother read 'em or
15 in your family you've talked about what the
16 different witnesses are saying?

17 A. No.

18 Q. No idea; is that right?

19 A. Well, you need to explain. Can you explain
20 that? What do you mean?

21 THE COURT: You don't understand
22 the question?

23 THE WITNESS: No.

24 THE COURT: Rephrase.

25 BY ATTORNEY GRIFFIN:

1 Q. Did you see your brother punch the guy in
2 picture Number 8, Exhibit 8, or Exhibit 9,
3 it's the same guy, did you see your brother --
4 A. Did I see him punch him?
5 Q. Did you see the defendant, Danny Wilber, punch
6 that guy there in the after hours the night
7 the shooting happened?
8 A. I'm not sure, but yes, I think so. I'm not
9 sure though.
10 Q. Did you see Isaiah punch your brother or try
11 and stop your brother, grab on to him?
12 A. No.
13 Q. Anything like that?
14 A. No, no, no.
15 Q. And you know, correct, Miss West, that I
16 believe you're telling the jury today that the
17 police basically lied on you in this
18 statement; right? They made things up?
19 A. Some of it, yeah, they made up.
20 Q. Some of it?
21 A. Yes.
22 Q. The important parts?
23 A. Yep, they made it up.
24 Q. They never wrote down, it isn't in your
25 statement anywhere, Antonio West saw her

1 brother shoot David Diaz, it's not in there
2 anywhere; is it?
3 A. No.
4 Q. They could have written that in there; right?
5 You didn't read it anyway. And that's what
6 they wanted you to say; right? That's what
7 you're telling this jury?
8 A. Right.
9 Q. They didn't write that; did they?
10 A. What?
11 Q. That you saw your brother --
12 A. No.
13 Q. -- shoot David Diaz?
14 A. No.
15 Q. It would have been pretty easy for 'em;
16 wouldn't it?
17 A. Yeah, 'cuz I didn't read it.
18 ATTORNEY GRIFFIN: Nothing
19 further.
20 THE COURT: Recross.
21 ATTORNEY CHERNIN: Thank you.
22 I'm going to be very brief, Your Honor.
23 RECROSS EXAMINATION:
24 BY ATTORNEY CHERNIN:
25 Q. Ms. West, from your vantage -- from the place

1 that you're in at the time the shot was fired,
2 could you see into this area behind where
3 Mr. Diaz fell? In other words, into this area
4 in the stairs, could you see that area --
5 A. No.
6 Q. -- from where you were standing?
7 A. No, I wasn't -- I wasn't paying attention
8 anyway. I don't know, no.
9 Q. But you did hear a shot and you're certain
10 that it came from the direction --
11 A. It sound like it came from the living room.
12 Q. From the -- okay. You don't know --
13 A. No. No.
14 Q. -- how far in the living room?
15 A. No, no, I don't know.
16 ATTORNEY CHERNIN: I have no
17 additional questions for this witness, Your
18 Honor.
19 THE COURT: All right. Ladies
20 and gentlemen, we're going to take our
21 afternoon break. It will be about a 15-minute
22 break. We'll be back on the record at quarter
23 to four. I suggest you stretch, it's kind of
24 that part of the afternoon where everybody
25 gets a little foggy, so stretch, get yourself